

Report on the
Constitutional Convention

REPORT AND RESOLUTIONS

1st Session

OF THE

CONSTITUTIONAL CONVENTION

OF THE

STATE OF VERMONT.

IN CONVENTION, January 8, 1857.

Reported by Committee, read and ordered to lie and that the Secretary procure five hundred copies to be printed for the use of the Convention.

Attest, D. W. C. CLARKE, *Secretary.*

Not in *Gilman*

MONTPELIER:

E. P. WALTON, PRINTER.

1857.

REPORT.

The Committee appointed to report what action is appropriate on the proposed amendments,

REPORT :

That the amendments are numerous and important ; that they contemplate many and radical changes in our present Constitution. We decline expressing any opinion on the merits or demerits of the proposed amendments. Our attention has been directed mainly to the ordinance under which this Convention was called and elected. In that ordinance the Council of Censors limited the number of the delegates to ninety. This number is apportioned among the several counties, by the ordinance, and the election made by a *plurality* vote,

This wide departure from all former precedent or usage, to us seems strange and startling.

On the first Wednesday of June, 1777, the Convention which declared the Independence of Vermont, met according to previous adjournment at Windsor. At that meeting a Committee was appointed to make a draft of a Constitution, and a resolution was adopted recommending to *each town* to choose delegates to meet in Convention at Windsor on the second day of July following. On the second day of July, 1777, *that* Convention, so called, met at Windsor, and by adjournment, was continued along till December of the same year, when it adopted the first Constitution of Vermont.

In the preamble to that Constitution the Convention declared that it "should remain in force, forever, *unaltered*, except in such articles as shall, hereafter, on experience, be found to require

improvement, and which shall, by the same authority of the people, fairly delegated, as this frame of government directs, be amended and improved."

That Constitution ordained that the House of Representatives should consist of freemen, chosen by the freemen of every town in the State, respectively.

The 44th section of the same Constitution provided for a *Council of Censors* and defined their powers. That section has never been altered. Among the powers granted to this Council, is that of calling future Conventions, to consider proposed amendments to the Constitution. It did not, *by words*, define the number to compose a convention, or give the Council authority to do so. A convention of delegates might consist of a thousand, or ten.—Did the framers of the article under consideration mean the one or the other? or did they mean to submit *that* question to the discretion or caprice of the Council? We think they meant neither.

At that day towns in their corporate and municipal character were objects of special regard. They were the horn of strength to the then struggling commonwealth. There men discussed their rights and prepared to maintain them—there and there only they could vote in the aggregate: there express their sentiments on all subjects touching the general interest—there give instructions to delegates and perpetuate the same by record—and in all these particulars towns, as such, should be no less the object of special regard now.

But what may we safely assume, as the undoubted intention and expectation of the framers of that article of the Constitution? *They* had been elected from every town—they regarded the rights of the towns with great veneration—and in their preamble, as a key to their intention, had said no alteration should ever be made, "except by the same authority of the people, fairly delegated."

We feel warranted in the conclusion that *that* Convention neither *expected, intended*, or even contemplated the possibility, that any future convention should be called in a different manner from themselves ; and their views and *intent* seem to have been entertained, approved and acted upon ever since.

The Council of Censors, chosen in 1785, proposed amendments to the Constitution and called a Convention composed of one delegate from *each town* in the State ; and such has been the uniform practice in all Conventions called since, till the present one.

We feel satisfied that this primary intention of the framers of our Constitution, which has not only been acquiesced in, but most cordially approved, cherished and revered, by the people of this State for three quarters of a century, should *now* be received as an authoritative construction of that provision, not to be denied or departed from.

We, therefore, recommend to this Convention the adoption of the accompanying resolutions.

PAUL DILLINGHAM,
SUMNER A. WEBBER,
WM. C. BRADLEY,
BENJ. F. OLIN,
DAVID E. NICHOLSON,
HORATIO NEEDHAM,
WYLLYS LYMAN,
BRADLEY BARLOW,
V. W. WATERMAN,
HORACE WADSWORTH,
ELIJAH CLEVELAND,
JOHN DEWEY,
THOMAS BARTLETT, JR.

RESOLUTIONS.

*(From the draft of Hon.
W. C. Bradley.)*

Resolved, That in view of the language used by the original framers of the Constitution in a Convention held for that purpose ; of the fact that the same Convention was composed of delegates from the several towns in this State ; that every Convention since held has been composed of members elected in a similar manner ; that amendments when proposed were directed to be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, *that they might have an opportunity of instructing their delegates on the subject* ; that then as well as now the towns were competent to hold meetings required by law, pass votes of instruction and certify the same through their regularly constituted officers, which the counties and mere territorial jurisdictions have never been authorized to do : in view of these and other reasons, this Convention is satisfied that by creating a new constituency and transferring the right of delegation from the respective towns to the counties, the late Council of Censors acted unwisely, and exceeded the powers devolved upon them by the Constitution, as heretofore practically interpreted.

Resolved, That if there is no specific provision in the Constitution prescribing the whole manner of electing members to the Conventions, the principle of town representation is too fully indicated to be thus invaded or assailed, more especially as under it for more than seventy years the State has found order and stability and the people have enjoyed prosperity and safety ; and forasmuch as on various occasions the general provisions of the Constitution have been carried out in detail by legislative action, it is recommend-

*Yeas, 7
Nays, 1*

*Yeas, 7
Nays, 1*

ed, to the coming legislature of this State to make some provision so that whenever any future Council of Censors shall decide upon calling a Convention, and fix the time of the meeting thereof, and of electing delegates thereto, the proper officers of each town may take measures for holding the meetings in each town, electing the delegate of such town, and certifying his election, as near as may be in the same manner now prescribed for the election of the Representatives of such town in the General Assembly of the State.

Res. 69, 74, 84.
Days, 24.
Res. 84.
Days, 2.
Resolved, That our constituents, in electing delegates to this Convention in the manner prescribed by the Ordinance of the late Council of Censors, did not so do for the purpose of acknowledging the validity of, or confirming the same Ordinance, but the rather, by expressing themselves through organs chosen in the very manner selected by the Council, to express more emphatically their reprobation of the action of the Council in the premises.

Resolved, That as the amendments proposed by the Council will necessarily fail and be virtually rejected by the people unless duly confirmed—this Convention sees no occasion to take any further action in relation thereto.

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